

# In the United States Court of Federal Claims

No. 13-269C

(Filed March 21, 2014)

NOT FOR PUBLICATION

\*\*\*\*\*

ARNOLD R. GALLOWAY,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

\*\*\*\*\*

## ORDER

The government filed a motion to transfer this case back to the United States District Court for the Southern District of California, arguing that we lack subject-matter jurisdiction over Fair Labor Standards Act claims under its reading of *United States v. Bormes*, 133 S. Ct. 12, 18-19 (2012). Plaintiff does not oppose the motion. The Court has elsewhere disagreed with the government's argument, *see Farzam v. United States*, 13-075C, 2013 WL 5819273 (Fed. Cl. Oct. 29, 2013), and the Federal Circuit has today issued an opinion rejecting the government's reading of *Bormes*. *See Abbey v. United States*, No. 2013-5009, Slip Op. at 10-17 (Fed. Cir. Mar. 21, 2014). Under this binding precedent, our Court and not the district court would possess jurisdiction over plaintiff's claim, under the Tucker Act, and accordingly the motion to transfer is **DENIED**. The Joint Preliminary Status Report shall be filed on or by **Monday, April 21, 2014**.

**IT IS SO ORDERED**

s/ Victor J. Wolski

**VICTOR J. WOLSKI**

Judge